

W.P.No.19917 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

Coram

THE HON'BLE MR JUSTICE C.V.KARTHIKEYAN

W.P.No.19917 of 2024 &
WMP.No.21789 of 2024

N.Pandurangan

... Petitioner

-Versus-

1. The Chairman Cum Managing
Director,
Tamilnadu Generation And
Distribution Corporation Ltd,
N.P.K.R.R. Maligai, No. 144, Anna
Sala, Chennai -600 002.

2.The Chef Engineer, Personnel,
Tamilnadu Generation And
Distribution Corporation Ltd, No. 144,
Anna Salai, Chennai -600 002.

3.The Superintending Engineer,
Chennai Electricity Distribution Circle,
West, Tamilnadu Generation And
Distribution Corporation Ltd,
Thirumangalam, Chennai -600040.

4.The Assistant Executive Engineer,
Operation And Maintenance Ambattur,
Tamilnadu Generation And
Distribution Corporation Ltd, Chennai
-600053.

... Respondents



W.P.No.19917 of 2024

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorari calling for the record pertaining to the Impugned charge memo made in Ku.No.1012/May.Po/Say.Mi.Pa.Va/West/Ni.Aa./Ni.May/Nipi II/Vu1/Ko.O.Na/2024 dated 08.02.2024 issued by the 3rd respondents and quash the same as illegal, arbitrary, unreasonable being violative of the rules and regulations of the respondents corporation

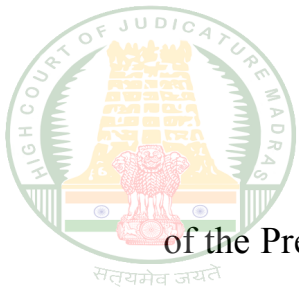
For Petitioner : Mr.G.Anandakumar

For Respondents : Mr.David Sundersingh

ORDER

The writ petition has been filed in the nature of a certiorari calling for the records relating to a charge memo dated 08.02.2024 issued by the third respondent and quash the same.

2. The writ petitioner had been initially appointed as Cashier by the respondent Board on 03.10.1973. He was then promoted to the post of Inspector of Assessment in the year 1989 and further promoted as Revenue Supervisor in November 1999. When he was working as Revenue Supervisor in the office of the Assistant Engineer (O & M), J.J.Nagar (West), Chennai, on 12.01.2005 he was implicated in a criminal case in Crime No.1/AC/2005/CC-II for the alleged offences punishable under Sections 7, 13(2) read with 13(1)(d)



W.P.No.19917 of 2024

of the Prevention of Corruption Act, 1988 registered by the Inspector of Police,
Vigilance and Anti-Corruption, Chennai city -2, Chennai.

3. On 12.01.2005, it was alleged that the petitioner had demanded a bribe amount and a trap was laid and he was also caught red handed accepting the bribe amount. Consequent to the registration of the first information report, the petitioner had been placed under suspension on 12.01.2005. This was revoked by order dated 05.10.2006 without prejudice to the outcome of the criminal case which was pending. The final report was taken cognizance initially as CC.No.10/2006 and subsequently as CC.No.83 of 2011 by the Special Court for the Cases under Prevention of Corruption Act, Chennai.

4. The petitioner was due to retire on 30.04.2010. He was again placed under suspension on 29.04.2010 without prejudice to the outcome of the criminal case pending against him. Thereafter on 30.04.2010, an order was passed that the petitioner was retained into service pending conclusion of the criminal case. The trial commenced and finally on 20.04.2012, the petitioner was acquitted of all charges. While giving the reasoning for such acquittal, the



W.P.No.19917 of 2024

learned Special Judge, the Special Court for PC Act cases, Chennai had

observed that there had been alterations in Ex.P8/complaint, namely, the date from 11.01.2005 to 12.01.2005 and also of the word which was altered as “நேற்று” in the place of “இன்று”. It was also stated that there was a delay of 14 days in preferring the complaint before the Vigilance Authorities. The learned Judge had observed that the delay had not been explained by the complainant. It was also stated that the presumption which arose under Section 20 of the Act could be rebutted and such rebuttal was by the own confession of the complainant in his cross examination. It was under those circumstances, the petitioner was acquitted of all charges.

5. Thereafter, the prosecution had filed an appeal in Criminal Appeal No.491 of 2012 before this Court.

6. The petitioner had given a representation immediately after his acquittal by the criminal court seeking release of terminal benefits. A communication was issued to the petitioner on 11.12.2012 stating that the revocation of suspension and terminal benefits would be considered subject to the outcome of the criminal court case and appeal.



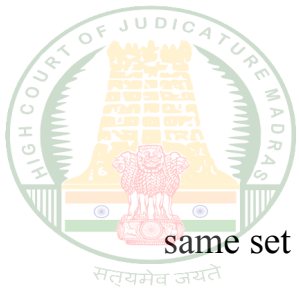
W.P.No.19917 of 2024

WEB COPY 7. The learned Single Judge of this Court by judgment dated 27.07.2022

had dismissed the said appeal and confirmed the order of acquittal. Thus, the petitioner stood acquitted of all charges.

8. On conclusion of the appeal, the present charge memo had been issued. It relates to the incident which happened in the year 2005. In the charge memo which is now impugned before this Court, there is no mention about the fact that the petitioner had been acquitted of all charges both by the trial court and by appellate court. It was only stated that the petitioner had been retained in service pending disposal of the criminal case. That criminal case had ended in acquittal. The petitioner's service had not been retained on contemplation of disciplinary proceedings or pending disciplinary proceedings.

9. In the documentd annexed with the charge memo, the judgment of the criminal court had not been mentioned. A perusal of the list of witnesses given as annexures to the charge memo and the prosecution witnesses in the criminal case shows that they all are same, except for the Investigating Officers. It is thus seen that the respondents intend to rely on the same set of evidence and



W.P.No.19917 of 2024

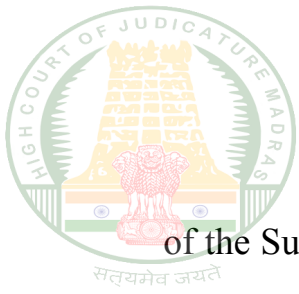
same set of witnesses.

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10. The evidence of the defacto complainant had been disbelieved by the learned Trial Judge. In fact, he had admitted during the course of cross examination about the fact that they had made alterations in the complaint with respect to the date and with respect also to a word in the complaint. He had also admitted that there was a delay in lodging the complaint. He had not given any explanation for such delay.

11. The respondents have also placed reliance on Rule 17(f) of the Tamil Nadu Electricity Board Service Regulations. It provides for retention in service of an employee who attains the age of superannuation, but reasons must be specifically given. It could be either for proceeding with the departmental disciplinary proceedings or for enquiry into allegations of criminal misconduct or a charge of misconduct or pending criminal case. The reason should be very specifically given. In the instant case, the only reason given is pending the outcome of the criminal case, which had ended in acquittal.

12. The learned counsel for the petitioner placed reliance on a judgment



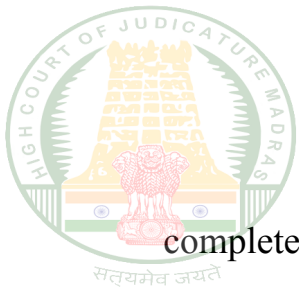
W.P.No.19917 of 2024

of the Supreme Court reported in (1999) 3 SCC 679 [Capt. M.Paul Anthony v.

WEB COPY Bharat Gold Mines Ltd and Another], wherein the Supreme Court examined the issue of the same set of evidence presented before both the Criminal court and during departmental disciplinary proceedings and after examination of issues, had finally held that when the same facts and evidence in both proceedings namely the departmental disciplinary proceeding and the criminal case were same and there is no iota of difference, it would be an exercise on futility to proceed further with the disciplinary proceeding. The ratio held therein will apply directly to the facts of this case.

13. I hold that the issuance of charge memo is *mala fide* in nature. The respondents should have appreciated the fact that the petitioner had been acquitted of all charges during criminal trial which acquittal had also been confirmed by the appellate court.

14. The charge memo stands quashed. A direction is issued to the respondents to pass appropriate orders revoking the suspension and pay terminal benefits payable to the petitioner. The entire exercise must be



W.P.No.19917 of 2024

completed within a period of three months from the date of receipt of a copy of

WEB COPY this order.

15. The writ petition stands allowed. There shall be no order as to costs.

Consequently, the connected miscellaneous petition is closed.

26.03.2025

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Index : Yes/No

Speaking order/Non speaking order

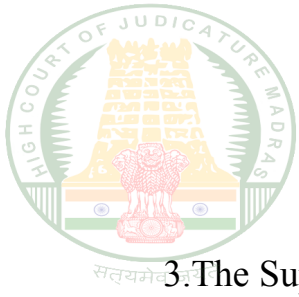
Neutral Citation : Yes/No

To

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8 of 10



W.P.No.19917 of 2024

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C.V.KARTHIKEYAN, J.

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W.P.No.19917 of 2024

W.P.No.19917 of 2024

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